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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,239	11/13/2003	Rajeev Chhabra	9103M	8603
27752 7590 01/22/2009 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER				
MATZEK, MATTHEW D				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,239

Applicant(s)

CHHABRA ET AL.

Examiner

MATTHEW D. MATZEK

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/13/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

In view of the Appeal Brief filed on 11/14/2008, PROSECUTION IS HEREBY REOPENED. New rejections are set forth below.

To avoid abandonment of the application, Applicant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then Applicant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/D. Lawrence Tarazano/

Supervisory Patent Examiner, Art Unit 1794.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Smith et al. (US 3,616,157).

a. Smith et al. disclose an embossed nonwoven wiper comprising a first undeformed region **44** and **46** (Figure 9) and a second strained region **40** and **42** (col. 4, lines 23-35). Adhesive may be applied at the embossed regions to enhance the shape stability of the embossed fabric, thereby locking by a reinforcing means the embossed protrusion (col. 8, lines 3-10). The embossed article may comprise 25 weight percent or more of thermoplastic material (col. 7, lines 41-45). If desired, heavier compaction may be used to thermally bond the fibers at the points of embossment (col. 6, lines 44-48). The applied invention provides the claimed furrows and ridges (Figures 4, 7 and 8). The claimed abrasivity of second region would necessarily be provided as applied invention meets the compositional and structural limitations. The applied invention may be used as a wet wipe as additional moisture at rates of 60 weight percent or more may be added prior to the invention's packaging (col. 7, lines 4-10). The applied reference may comprise additional layers to form a laminate (Examples).

b. Although Smith does not explicitly teach the claimed features of retaining its thickness when wet or having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements, it is reasonable to presume that the claimed wet thickness retention and having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements are inherent to the invention of Smith. Support for said presumption is found in the use of like materials (i.e. nonwoven of claimed structure). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of retaining its thickness when wet or

having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements would obviously have been present one the Smith et al. product is provided.

Claim Rejections - 35 USC § 103

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorbin et al. (US 6,383,431 B1) in view of Smith (US 3,616,157) and Curro et al. (US 2002/0034912 A1).

a. Dorbin et al. disclose a method for modifying the physical characteristics of a nonwoven fibrous web, which involves passing the web between at least one pair of inter-engaged rolls to incrementally stretch the web, and then withdrawing the incrementally stretched web from between the rolls under tension. (Abstract) The reference relates to disposable absorbent articles. The reference teaches a nonwoven material with a deformation pattern in the form of ridges and grooves defining an array of spaced, diamond-shaped elements **100** with intervening *un-deformed* areas **102** which provide the claimed surface plane of the substrate. (Col. 12, lines 2-24; Figures 9-11). Figures 10 and 11 show the patterns of the forming rolls that are transferred into the nonwoven web. It is the Examiner's interpretation that that first and second regions of the present invention are provided by the Dobrin reference. (Refer to Figures 10 and 11). Applicant is directed to the figures of Dorbin et al. and those of the instant application as they comprise similar apparatuses and formed nonwovens. The nonwoven article of Dorbin et al. may comprise at least 20% thermoplastic material as the article may consist of polyethylene fibers (col. 7, lines 22-28) and may be laminated to other sheets to form a laminate (col. 2, lines 5-10). The reference shows in its examples nonwoven materials

with basis weight ranging from 27-33 gsm and it teaches structures that comprise carded webs, spun bonded webs, SMS, among others (Refer to Table I and Cols. 14-18). Dorbin '431 teaches that the preferred fibrous nonwoven web material can have an initial thickness of from about 5 mils to about 40 mils [0.1270-1.0160 mm]. (Refer to Col. 7, lines 29-30) Further, the reference teaches that the modified web thickness is from about 85% to about 400% of the initial web thickness (caliper). (Refer to Col. 3, lines 47-48).

b. Dorbin is silent as to the locking of the protruding elements in the second region by the reinforcing means of the present invention, but does teach that the fibers of the nonwoven fibrous web may be bonded to each other through thermal or adhesive bonding (col. 6, lines 60-67).

c. Smith is directed to an embossed nonwoven fabric having a textured character and fabric-like qualities of softness and had and suitable for wiping surfaces having aqueous liquids. (Abstract) Figure 4, shows a configuration in which the embossed nonwoven fabric 26 is used for wiping or cleaning purposes and areas 22 (similar to the second portions of the present invention) are reinforced by thermal bonding. (Refer to Col. 3, lines 31-45). Moisture may be applied to the wiper of Smith at levels of up to 60 percent or more based upon the dry wiper weight when desired (col. 7, lines 5-10). Smith also teaches the application of adhesive preferably only at the sites of embossment to enhance the shape-stability of the embossed nonwoven fabric (col. 8, lines 3-11).

d. Since both references are directed to nonwoven materials useful in the production of disposable absorbent materials the purpose disclosed by Smith would have been recognized in the pertinent art of Dorbin et al.

e. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the second portions of Dorbin et al. with either adhesive for bonding or thermal bonding with the motivation of enhancing the shape-stability of the embossed nonwoven fabric (col. 8, lines 3-11, Smith).

e. Although Smith and Dorbin et al. do not explicitly teach the claimed features of retaining its thickness when wet or having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements, it is reasonable to presume that the claimed wet thickness retention and having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements are inherent to the combination of Smith and Dorbin. Support for said presumption is found in the use of like materials (i.e. nonwoven of claimed structure). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of claimed wet thickness retention and having a thickness that is at least about 30% greater than the thickness of a wet textured wet wipe which does not include protruding elements would obviously have been present once the combined product of Smith and Dorbin is provided. The second region of the combination of Dorbin et al. and Smith would necessarily provide abrasivity as it would comprise a materially identical article to that of Applicant.

f. Curro et al. disclose a laminate of nonwoven webs that is capable of multiple uses such as in personal absorbent articles and wet wipes [0010]. Dorbin et al. discloses the claimed nonwoven laminate except that it is used in personal absorbent articles instead of as a wet wipe, Curro et al. show that laminates of nonwoven webs may be used personal

absorbent articles as well as wet wipes. Therefore, because laminates of nonwoven webs were used in both personal absorbent articles as well as wet wipes at the time the invention was made, one of ordinary skill in the art would have found it obvious to have used the invention Dorbin et al. as a wet wipe.

Response to Arguments

3. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection. However, they have been addressed at this time because Examiner has applied previously cited references. In answering Applicant's arguments Examiner is hoping to further prosecution.

4. Applicant argues that unlike the claimed invention the nonwoven web of Dorbin et al. is attached to a second component to form functional and structural elements of disposable absorbent articles. As set forth in the new ground of rejection above, it was well known in the art at the time the invention was made to use laminates of nonwoven webs in both personal absorbent articles and wet wipes. Furthermore, the first embodiment of Dorbin et al. does not require the aforementioned second component.

5. Applicant argues that even though Dorbin et al. does not explicitly disclose that the second film component serves as reinforcement to the protruded elements formed, one of ordinary skill in the art would know that attaching the nonwoven to a film restrains the nonwoven in the x-y plane, which has the effect of maintaining the texture formed in the nonwoven. Therefore, the invention of Dorbin et al. does not further require the reinforcement means to lock the protruding elements as claimed. Applicant has only focused on one embodiment of the applied reference. When Dorbin et al. is considered in whole the applied

reference does not require a reinforcing film layer, but may also be considered as a stand alone web (abstract).

6. Applicant argues that embossments of Smith would adversely affect the soft texture of Dorbin et al. The cited section of Smith (col. 1, lines 47-50) is used to describe an article that has its entire body embossed, which is neither present in Dorbin et al. nor Smith. Furthermore, the discussion in Smith is comparing embossed regions to uncompressed regions, which are present in Smith, Dorbin et al. and the instantly claimed invention and merely states that uncompressed regions are softer than those that are compressed.

7. Applicant argues that one of ordinary skill in the art would have had no reason to combine Dorbin et al. and Smith. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the second portions of Dorbin with either adhesive for bonding or thermal bonding with the motivation of enhancing the shape-stability of the embossed nonwoven fabric (col. 8, lines 3-11, Smith).

8. Applicant argues that the combination of Dorbin et al. and Smith does not provide for the claimed invention in that embossed, compacted regions lie in planes of substantially parallel top and bottom surfaces of a nonwoven fabric and as such they are compressed as opposed to being strained as claimed. Examiner has relied upon Dorbin et al. to provide the overall strained/unstrained structure for the 103(a) rejection above and has only relied upon Smith to teach bonding at the points of embossment/strain. With regards to the new anticipatory rejection set forth above, Applicant is directed to Figures 9 and 11, which clearly show that the fibers of the nonwoven web are being strained at points **40**, **42** and **68** as the fibers are being pulled between adjacent teeth of the forming apparatus.

9. Applicant argues that even though the embossed compacted areas of Smith are hingedly connected they cannot be construed as locked protruding elements as claimed. For examination purposes, the depressed embossment **40** may serve as the surface plane and the elevated embossment **42** may serve as the claimed protruding element with the first, undeformed region **44** being present in between embossments. Applicant fails to claim that the first, undeformed region is in the surface plane of the nonwoven substrate.

10. Applicant argues that neither Dorbin et al. nor Smith teaches or suggests a nonwoven substrate or wet wipe that retains its thickness when wet. Since the combined article of Dorbin et al. and Smith as well as Smith alone meet the claimed invention's structure and as such would necessarily retain its thickness when wet.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW D. MATZEK whose telephone number is (571)272-2423. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571.272.1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew D Matzek/
Examiner, Art Unit 1794

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit
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